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Attorneys for  
 CHEVRON CORPORATION

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

***In re Application of:***

**THE REPUBLIC OF ECUADOR,**  
  
**Applicant,**

**For the Issuance of a Subpoena for the  
 Taking of a Deposition and the Production  
 of Documents in a Foreign Proceeding  
 Pursuant to 28 U.S.C. § 1782**

**AND RELATED CASES**

Case No. CV 10-80225 MISC CRB (EMC)  
 [Related Case CV 10-80324 MISC CRB  
 (EMC) and CV 11-80087 MISC CRB  
 (EMC)]

**CHEVRON CORPORATION'S MEET  
 AND CONFER CERTIFICATION IN  
 SUPPORT OF ITS MOTION TO  
 INTERVENE AND RESPONSE TO THE  
 REPUBLIC OF ECUADOR'S MOTION  
 TO COMPEL PRODUCTION OF  
 ELECTRONICALLY STORED  
 DOCUMENTS**

**CERTIFICATION**

I, David W. Shapiro, certify as follows:

1. I am a partner with the law firm of Boies, Schiller & Flexner, LLP, and counsel to Chevron Corporation ("Chevron"). I make this certification pursuant to the Standing Order of the Honorable Magistrate Judge Chen. I have personal knowledge of the facts set out below and can testify competently to those facts if called upon to do so.

2. I informed the Republic of Ecuador, through its counsel Eric Bloom of Winston & Strawn, by email on May 2, 2011, that Chevron may move to intervene. The Republic of Ecuador ("ROE"), through its counsel Eric Bloom, responded by email that Chevron "may represent that Ecuador will oppose the motion." Attached hereto as Exhibit 1 is a true and correct copy of my email to Mr. Bloom and his response.

3. I also participated on a meet and confer conference call on May 6, 2011 with Gregory Ewing of Winston & Strawn, Michael Anderson of Arguedas, Cassman & Headley, LLP, counsel for Borja, and Eric Westenberger of Patton Boggs, counsel for the Lago Agrio plaintiffs. During the call we discussed, among other matters, Chevron's possible intervention. Following the call, I sent an email to the participants on the call. In my May 6, 2011 email, I asked whether the ROE would "agree to treat any Chevron employee and lawyer contact information on Borja's electronic devices as Attorneys' Eyes Only if the court orders Borja to disclose such information." On May 10, 2011, Mr. Ewing responded by email that "we think that any contact information could be adequately protected under the general Protective Order (Dkt #92 in 10-mc-80225) and there is no need for any further protection." Attached hereto as Exhibit 2 is a true and correct copy of the email exchanges setting up the meet and confer conference call and emails following the call.

1 4. The meet and confer was conducted by conference call and email because in-person  
2 meetings were not practicable. My office is in Oakland, California, Eric Bloom and Gregory  
3 Ewing's office is in Washington, D.C.

4  
5 I declare under penalty of perjury under the laws of the United States and the State of  
6 California that the foregoing is true and correct.

7  
8 Executed this 11<sup>th</sup> day of May, 2011, in Oakland, California.

9  
10 /s/ David W. Shapiro

11 David W. Shapiro  
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# **EXHIBIT 1**

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**From:** Bloom, Eric W. [mailto:EBloom@winston.com]  
**Sent:** Tuesday, May 03, 2011 7:18 AM  
**To:** David Shapiro  
**Cc:** Michael W. Anderson (anderson@achlaw.com)  
**Subject:** RE: Borja

David,

Rich has forwarded to you the unredacted motion papers. Let us know if you have not received. If you do seek intervention, you may represent that Ecuador will oppose the motion.

Best,  
Eric

---

**From:** David Shapiro [mailto:dshapiro@BSFLLP.com]  
**Sent:** Monday, May 02, 2011 6:42 PM  
**To:** Bloom, Eric W.  
**Cc:** Michael W. Anderson (anderson@achlaw.com)  
**Subject:** Borja

Eric – can you email me an unredacted copy of the motion you served on Mike Anderson?

I may move to intervene in your motion. Do you object to that?

David W. Shapiro  
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Suite 900  
Oakland, CA 94612  
510-874-1005 (telephone)  
510-874-1460 (fax)  
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# **EXHIBIT 2**

Shira Liu

---

**From:** Ewing, Gregory L. [GEwing@winston.com]  
**Sent:** Tuesday, May 10, 2011 7:03 PM  
**To:** David Shapiro; Michael W. Anderson; Daleo, Eric; ewestenberger@pattonboggs.com  
**Cc:** Bloom, Eric W.; Shira Liu  
**Subject:** RE: Sharing Amongst the Parties

David, not sure if you are asking us but to be clear, we think that any contact information could be adequately protected under the general Protective Order (Dkt #92 in 10-mc-80225) and there is no need for any further protection.

---

**From:** David Shapiro [mailto:dshapiro@BSFLLP.com]  
**Sent:** Tuesday, May 10, 2011 9:09 PM  
**To:** Ewing, Gregory L.; Michael W. Anderson; Daleo, Eric; ewestenberger@pattonboggs.com  
**Cc:** Bloom, Eric W.; Shira Liu  
**Subject:** RE: Sharing Amongst the Parties

Do all the other law firms for the Lago plaintiffs also agree? Do you agree that the contact information should be attorneys' eyes only?

---

**From:** Ewing, Gregory L. [mailto:GEwing@winston.com]  
**Sent:** Tuesday, May 10, 2011 7:27 AM  
**To:** David Shapiro; Michael W. Anderson; Daleo, Eric; ewestenberger@pattonboggs.com  
**Cc:** Bloom, Eric W.; Shira Liu  
**Subject:** RE: Sharing Amongst the Parties

David, thanks for putting this together. We agree to #1 and #2 regarding the agreement to share.

Regarding #3, at this point we've asked the Court for what we would like. We'd be willing to negotiate with Mike further about the process for forensic analysis but otherwise we'll wait to see what the Court says.

Regarding #4 and the contact information, all of Borja's materials are under a protective order that prohibits disclosure of this information so Chevron's agents' privacy interests, in our view, are already protected.

Greg

---

**From:** David Shapiro [mailto:dshapiro@BSFLLP.com]  
**Sent:** Friday, May 06, 2011 3:17 PM  
**To:** Ewing, Gregory L.; Michael W. Anderson; Daleo, Eric; ewestenberger@pattonboggs.com  
**Cc:** Bloom, Eric W.; Shira Liu  
**Subject:** RE: Sharing Amongst the Parties

A few suggested changes:

1. Any agreements to share unredacted versions of court filings will not modify in any way the Protective Order entered by Magistrate Judge Chen on February 25, 2011 relating to Borja's productions in response to subpoenas served by the Yaiguaje plaintiffs and the ROE.
2. The parties subject to the Protective Order and Chevron agree that they may exchange unredacted versions of sealed filings with



each other; however, the ROE will not share with or disclose to the Yaiguaje plaintiffs or their counsel any documents or information that Borja did not produce to the Yaiguaje plaintiffs or their counsel, including any Attorneys' Eyes Only documents or information. This agreement may be revoked at any time by any of the parties subject to the Protective Order or Chevron.

3. You will let us know as soon as possible how you propose to conduct forensic examinations of the Borja electronic items that are the subject of the motion to compel, assuming the court grants your motion.
4. You will also let us know as soon as possible whether you will agree to treat any Chevron employee and lawyer contact information on Borja's electronic devices as Attorneys' Eyes Only if the court orders Borja to disclose such information.

---

**From:** Ewing, Gregory L. [mailto:GEwing@winston.com]  
**Sent:** Friday, May 06, 2011 11:53 AM  
**To:** David Shapiro; Michael W. Anderson; Daleo, Eric; ewestenberger@pattonboggs.com  
**Cc:** Bloom, Eric W.; Shira Liu  
**Subject:** RE: Sharing Amongst the Parties

Here it is but you should have this already from both Borja actions.

---

**From:** David Shapiro [mailto:dshapiro@BSFLLP.com]  
**Sent:** Friday, May 06, 2011 2:50 PM  
**To:** Ewing, Gregory L.; Michael W. Anderson; Daleo, Eric; ewestenberger@pattonboggs.com  
**Cc:** Bloom, Eric W.; Shira Liu  
**Subject:** RE: Sharing Amongst the Parties

I'll take a look. Can you email me the Protective Order you're referring to please?

---

**From:** Ewing, Gregory L. [mailto:GEwing@winston.com]  
**Sent:** Friday, May 06, 2011 11:33 AM  
**To:** David Shapiro; Michael W. Anderson; Daleo, Eric; ewestenberger@pattonboggs.com  
**Cc:** Bloom, Eric W.; Shira Liu  
**Subject:** RE: Sharing Amongst the Parties

David, I've modified the first two points to make them the more general agreement that we are proposing and that Mike and the Yaiguaje plaintiffs have agreed to. Does Chevron still agree?

1. Any agreements to share unredacted versions of court filings ~~in connection with the ROE's current motion to compel~~ will not modify in any way the protective orders currently in place relating to Borja's productions.
2. The **parties to the Protective Order** ~~ROE and Yaiguaje plaintiffs' lawyers~~ would like to exchange unredacted versions of the sealed filings with each other ~~and with counsel for Borja and Chevron in connection with the ROE's pending motion to compel~~. On behalf of Chevron, we agree to that proposal, except that it is our understanding that the ROE will not disclose to the Yaiguaje plaintiffs or their counsel any documents that Borja did not produce to the Yaiguaje plaintiffs or their counsel, including any Attorneys' Eyes Only documents.

-----Original Message-----

From: David Shapiro [mailto:dshapiro@BSFLLP.com]  
Sent: Friday, May 06, 2011 2:05 PM  
To: Ewing, Gregory L.; Michael W. Anderson; Daleo, Eric;  
ewestenberger@pattonboggs.com  
Cc: Bloom, Eric W.; Shira Liu  
Subject: RE: Sharing Amongst the Parties

Thanks for the call today. Here is my understanding of what we discussed:

1. Any agreements to share unredacted versions of court filings in connection with the ROE's current motion to compel will not modify in any way the protective orders currently in place relating to Borja's productions.
2. The ROE and Yaiguaje plaintiffs' lawyers would like to exchange unredacted versions of the sealed filings with each other and with counsel for Borja and Chevron in connection with the ROE's pending motion to compel. On behalf of Chevron, we agree to that proposal, except that it is our understanding that the ROE will not disclose to the Yaiguaje plaintiffs or their counsel any documents that Borja did not produce to the Yaiguaje plaintiffs or their counsel, including any Attorneys' Eyes Only documents.
3. You will let us know as soon as possible how you propose to conduct forensic examinations of the Borja electronic items that are the subject of the motion to compel, assuming the court grants your motion.
4. You will also let us know as soon as possible whether you will agree to treat any Chevron employee and lawyer contact information on Borja's electronic devices as Attorneys' Eyes Only if the court orders Borja to disclose such information.

-----Original Message-----

From: Ewing, Gregory L. [mailto:GEwing@winston.com]  
Sent: Thursday, May 05, 2011 4:54 PM  
To: Michael W. Anderson; David Shapiro; Daleo, Eric; ewestenberger@pattonboggs.com  
Cc: Bloom, Eric W.; Shira Liu  
Subject: RE: Sharing Amongst the Parties

Great. Here is call-in information that we can use:

(866) 619-3061  
Participant Passcode: 2825631

-----Original Message-----

From: Michael W. Anderson [mailto:anderson@achlaw.com]  
  
Sent: Thursday, May 05, 2011 7:53 PM  
To: David Shapiro; Ewing, Gregory L.; Daleo, Eric; ewestenberger@pattonboggs.com  
Cc: Bloom, Eric W.; Shira Liu  
Subject: RE: Sharing Amongst the Parties

I can make 10 am, if someone will send around a call-in number.

Michael W. Anderson, PhD  
Arguedas, Cassman & Headley, LLP  
803 Hearst Avenue  
Berkeley, CA 94710  
tel 510.845.3000

fax 510.845.3003  
www.achlaw.com

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-----Original Message-----

From: David Shapiro [mailto:dshapiro@BSFLLP.com]

Sent: Thursday, May 05, 2011 4:52 PM

To: Ewing, Gregory L.; Daleo, Eric; ewestenberger@pattonboggs.com

Cc: Bloom, Eric W.; Michael W. Anderson; Shira Liu

Subject: RE: Sharing Amongst the Parties

Yes, but I'd like Mike to be on the phone also please.

-----Original Message-----

From: Ewing, Gregory L. [mailto:GEwing@winston.com]

Sent: Thursday, May 05, 2011 4:49 PM

To: David Shapiro; Daleo, Eric; ewestenberger@pattonboggs.com

Cc: Bloom, Eric W.; Michael W. Anderson; Shira Liu

Subject: RE: Sharing Amongst the Parties

Ok, David, I will call you tomorrow. Are you available at 1pm EDT/10am PDT?

David Shapiro <dshapiro@BSFLLP.com> wrote:

I can't agree until I get answers to a few questions about your email and what you propose, and I think it would be quicker to get answers in a phone call.

Thanks.

-----Original Message-----

From: Ewing, Gregory L. [mailto:GEwing@winston.com]

Sent: Thursday, May 05, 2011 3:26 PM

To: David Shapiro; Daleo, Eric; ewestenberger@pattonboggs.com

Cc: Bloom, Eric W.; Michael W. Anderson; Shira Liu

Subject: RE: Sharing Amongst the Parties

David, this email is only to confirm the general agreement that the parties to the two Borja 1782 actions may share courtesy copies of otherwise sealed filings amongst each other, not the substance of any of those filings. The purpose is simply to make more general the agreement that Chevron and the Yaiguaje plaintiffs benefited from last week with the Republic's filing and to streamline future filings. Is that general agreement acceptable with Chevron?

Greg

David Shapiro <dshapiro@BSFLLP.com> wrote:

Can we have a phone call so I can understand what's in dispute and thus be able to figure out whether I should ask to intervene?

---

From: Ewing, Gregory L. [mailto:GEwing@winston.com]  
Sent: Thursday, May 05, 2011 2:54 PM  
To: Daleo, Eric; David Shapiro; ewestenberger@pattonboggs.com  
Cc: Bloom, Eric W.; Michael W. Anderson  
Subject: Sharing Amongst the Parties

David, Eric, and Eric, I would like to confirm with you that we are all in agreement that, because we are operating under the same protective orders with regard to discovery material from Diego Borja, each of the parties represented by counsel on this email may share amongst ourselves unredacted versions of filings otherwise filed under seal pursuant to Judge Chen's Orders. I have confirmed with Michael Anderson that Mr. Borja does not object to this agreement, see email exchange below. Because both the Yaiguaje plaintiffs and Chevron earlier requested and received unredacted copies of the Republic's Motion to Compel of last week I do not expect this to be a problem. Would you please confirm though by email that you are in agreement?

Thank you,

Greg

Gregory L. Ewing

Associate

Winston & Strawn LLP  
1700 K Street, N.W.  
Washington, DC 20006-3817

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Not admitted to practice in DC.

[cid:image001.jpg@01CC0B35.B1FF1BC0]  
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From: Michael W. Anderson [mailto:[anderson@achlaw.com](mailto:anderson@achlaw.com)]  
Sent: Thursday, May 05, 2011 5:16 PM  
To: Ewing, Gregory L.  
Subject: RE: Sharing Amongst the Parties

Greg,

Provided the sharing is limited to the Republic of Ecuador, the Yaiguaje Plaintiffs, and Chevron, we do not object.

Michael W. Anderson, PhD  
Arguedas, Cassman & Headley, LLP  
803 Hearst Avenue

Berkeley, CA 94710  
tel 510.845.3000  
fax 510.845.3003  
www.achlaw.com<<http://www.achlaw.com/>>

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From: Ewing, Gregory L. [mailto:GEwing@winston.com]  
Sent: Wednesday, May 04, 2011 8:25 AM  
To: Michael W. Anderson  
Subject: Sharing Amongst the Parties

Mike, sorry to interrupt your vacation with email but I wanted to see if we could come to an agreement about sharing filings covered by the protective order amongst the parties to our 1782 action and the Yaiguaje action that will save us some hassle. Since we are all acting under the same protective order would you agree that we (the Republic, Diego Borja, the Yaiguaje plaintiffs, and Chevron) can share all filings using Borja's protected materials amongst ourselves? You didn't object to our sharing of unredacted copies of our latest filing with Chevron and the Yaiguaje plaintiffs so I am assuming this won't be a problem. If you agree I will get in touch with the Yaiguaje plaintiffs and Chevron and verify that they are in agreement as well although I don't expect there to be a problem there either.

I hope you are able to enjoy your vacation.

Greg

Gregory L. Ewing

Associate

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Washington, DC 20006-3817

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Email<<mailto:gewing@winston.com>> | [www.winston.com](http://www.winston.com)<<http://www.winston.com>>

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[cid:image001.jpg@01CC0B35.B1FF1BC0]

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